

(H. B. 4)

(No. 70-2013)

(Approved July 23, 2013)

AN ACT

To create the “Act for the Development of a Country Brand”; create a “Standing Committee on the Creation, Development, Implementation, and Maintenance of a Country Brand,” attached to the Department of Economic Development and Commerce, establish the composition, the obligations of the Department of Economic Development and Commerce, the functions, authorities, and jurisdiction of the Committee; and provide for the appropriation of funds, in order to guarantee the establishment of adequate procedures for the adoption of Puerto Rico’s “country brand,” and the adequate, continuous, and consistent use thereof.

STATEMENT OF MOTIVES

The marketing of the image of a country worldwide requires perseverance and a common purpose, but above all, it requires the proper use of the names, terms, signs, and symbols that are chosen to represent a place. Thus, the use of branding as a marketing strategy is increasing over time. Countries such as the United States, England, France, Germany, and Italy, among others, have maximized the use of their country brand to build a global image that attracts tourism and investment to their territories. In forty (40) years this practice has gained more popularity in this new era of globalization.

The “Country Brand” strategy enables the establishment of a common platform whereby public-private initiatives shall be effectively implemented in order to consolidate the country’s potential for international markets and to strengthen its position worldwide. The country brand needs the support of the “country image” in an attempt to build, change, or protect the international

reputation of the country in question and its global image. It is the ability of a country to seize fair trade opportunities and benefits, which depends not only on its internal transformation but also on its international recognition. In this globalized world, the decision-making process of those visiting and investing in a certain country has become more dynamic and is influenced by the constant inflow of information. In view of such reality, governments are compelled to develop marketing strategies that lure tourists and investors quickly and efficiently.

It is undeniable that consumers, tourists, and investors still take into account among other elements, the image portrayed by a certain country when considering it as a tourist or business destination. Branding in a country's promotion and marketing process is of vital importance in order to clearly, concisely, and effectively show the world the strengths and attractions of a territory. However, branding alone does not guarantee an adequate worldwide impact, it is essential that it be properly conceptualized, in order for it to truly portray the essence of the territory that is intended to promote. Furthermore, it is necessary to be consistent with the use of the brand, this includes to maintain it without being subject to political seesaw.

In order to constantly portray the island as a tourist and business destination, it is necessary to provide the Government of the Commonwealth of Puerto Rico with tools in order to render its plans and initiatives stable and permanent, and to allow for the official adoption of a permanent country brand that is not subject to government administration changes, every four years.

Changing the campaign approach and the emphasis on the products' features is an advertising technique used quite frequently. However, one of the cardinal principles in advertising shows us that once the people identify a product or service with a specific phrase it may only be changed to respond to the needs or preferences of consumers rather than to the whims or preferences of the brand's

owners. In light of the foregoing, it is imperative to conclude that if the Government of the Commonwealth of Puerto Rico constantly changes its brands, it may make the mistake of confusing the audience of its different advertising and marketing campaigns.

It is necessary for the Government the Commonwealth of Puerto Rico to set forth a public policy that strengthens the initiatives of promoting the image of the Island worldwide, through the official adoption of a brand. To achieve this, it is critical to establish parameters and rules to guarantee that the recommendations of the sectors and persons with the necessary capability and knowledge shall be considered during the “country brand” adoption process. Furthermore, it shall be ensured that the brand shall be used consistently and uniformly in all government programs and initiatives whose purpose is to promote and market the image of the island of Puerto Rico, and that the adoption of such brand and any potential changes thereto shall only respond to scientific and proven criteria in the field of marketing and advertising, upon carrying out all the corresponding research and studies.

Imprinting the name of “Puerto Rico” in the minds of consumers and investors around the world is a strategy that shall allow for the sustainable placement of local products and services worldwide, thus emphasizing the Island’s multicultural, tourist, and investment potential, and contributing to its economic development and competitiveness. In view of the importance of the country brand’s creation and adoption process, the “Act for the Development of a Country Brand” is hereby created to provide the Government of the Commonwealth of Puerto Rico with the necessary tools to officially adopt a tourist and economic brand and maximize use thereof at all government levels and different sectors of the Island.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- The “Act for the Development of a Country Brand” is hereby established.

Section 2.- Statement of Public Policy.-

It shall be the public policy of the Government of the Commonwealth of Puerto Rico:

- a. To officially adopt a “country brand.”
- b. To maximize the use of a “country brand” to establish a global image for Puerto Rico that distinguishes the island not only as a tourist destination, but also as an investment destination at all economic levels.
- c. To establish guarantees, safeguards, and processes to ensure that the adoption of a “country brand” by the Government of the Commonwealth of Puerto Rico be adequate and addresses the needs of the market as well as those of the people.
- d. To adopt a “country brand” that properly represents the idiosyncrasy of the people of the Island of Puerto Rico.
- e. To promote the consistent use of the “country brand” at all levels in the Government of the Commonwealth of Puerto Rico and in the private sector of the island.
- f. To set forth a public policy geared toward strengthening initiatives to promote a single image of Puerto Rico as a tourist and business destination, through the adoption of a “country brand.”

Section 3.- Definitions.-

For the purposes of this Act, the following terms and phrases shall have the meaning stated hereinbelow:

- a. “Committee” - means the “Standing Committee on the Creation, Development, Implementation, and Maintenance of a Country Brand.”

- b. “Company” - means the Puerto Rico Tourism Company.
- c. “Department” - means the Department of Economic Development and Commerce of the Commonwealth of Puerto Rico.
- d. “Government Instrumentality” - means any department, board, commission, public corporation, bureau, agency, or any other political or administrative subdivision of the Government of the Commonwealth of Puerto Rico.
- e. “Country Brand” - means a base strategy that proves the various unique values of a nation, region, or city which are interrelated to establish comparative and competitive advantages for the purpose of placing the services, sites, and products of a country. It translates into any name, term, sign, symbol, slogan, or design or combination thereof used for the purpose of identifying the qualities, attributes, services, and strengths of a country that distinguishes a country from others.

Section 4.- Obligations of the Department of Economic Development and Commerce together with the Tourism Company.-

- a. To have the responsibility and obligation of assessing, conceptualizing and officially adopting the “country brand” to be used in the plans and programs of the Government of the Commonwealth of Puerto Rico to promote and market the island’s image within Puerto Rico and abroad and as an investment destination. Neither the “country brand” nor any phrase established in this Act shall be the same as nor similar to any logo used by any political party or candidate as part of the campaign.
- b. To oversee the standard use of the “country brand” to be adopted, in any program, action or initiative of the government instrumentalities.
- c. To oversee the integrity and proper use of the “country brand” to be adopted.

d. To conduct any necessary campaigns and activities to disclose the “country brand” thus adopted.

e. To coordinate, together with any other government instrumentality, any collaborative agreement or partnerships to further the purposes of this Act.

f. To enter into any contract, compact, collaborative agreement or partnership with any private company, nonprofit organization or cooperative that allows for the optimum use of the adopted brand.

g. To exercise any other power or legal authority as deemed reasonable and necessary to achieve the purposes of this Section.

h. To execute instruments as are necessary and convenient to exercise any of its powers.

Section 5.- “Standing Committee on the Creation, Development, Implementation, and Maintenance of a Country Brand.”-

The “Standing Committee on the Creation, Development, Implementation, and Maintenance of a Country Brand” is hereby created to discharge the obligations of the Department.

Section 6.- Composition of the Committee.

Said Committee shall be composed of the following fifteen (15) members:

a. The Secretary of the Department of Economic Development and Commerce, who shall be the Chair of the Committee;

b. The Executive Director of the Tourism Company;

c. One (1) representative of the Executive Committee of the Puerto Rico Hotel and Tourism Association;

d. One (1) representative of the Puerto Rico Convention Bureau.

e. Three (3) representatives of the entrepreneurial, industrial, and business sector of Puerto Rico;

f. One (1) representative of the cultural and patrimonial sector of Puerto Rico with over ten (10) years of experience;

g. Two (2) representatives of the academia, one representative of a private university and one representative of the public university both from different disciplines within the marketing, hotel, and/or tourism fields;

h. One (1) representative of the Puerto Rico Sales and Marketing Executives Association;

i. One (1) representative of the *Asociación de Paradores de Puerto Rico*.

The other three (3) members shall be the Executive Director of the Puerto Rico Trade and Export Company, the Executive Director of the Puerto Rico Industrial Development Company, and the Executive Director of the Puerto Rico Film Corporation, who shall be ex officio members. The Committee shall be attached to the Department. Except for the Executive Director of the Department, the Executive Director of the Tourism Company, the Executive Director of the Puerto Rico Trade and Export Company, the Executive Director of the Puerto Rico Industrial Development Company, and the Executive Director of the Puerto Rico Film Corporation, all other members shall be appointed by the Governor of the Commonwealth of Puerto Rico with the advice and consent of the Senate and the House of Representatives of the Commonwealth of Puerto Rico for a term of ten (10) years, or until their successors are appointed and take office.

The Committee members shall neither earn a salary for their services nor be entitled to a per diem.

Section 7.- Jurisdiction of the Committee:

a. To advise the Department in the conceptualization and adoption process of the “country brand” to be used by the Government of the Commonwealth of Puerto Rico in all campaigns and programs promoting the image of the Island within Puerto Rico and abroad.

b. To ensure that campaigns promoting the island as a tourist and economic destination, and those related to the development of a “country brand” comply with the parameters established for the development of the “country brand.”

c. Prior to the adoption of a “country brand” by the Department, the Committee shall guarantee that a marketing and advertising plan has been devised by qualified and knowledgeable staff, including the studies and research provided in subsections 3 and 4 of Section 6 of Act No. 10 of July 18, 1970, as amended, better known as the “Puerto Rico Tourism Company Act,” and that such plan validates the suitability of the brand to be adopted.

d. The evaluation and approval of a majority constituted by eight (8) out of fifteen (15) members of the Committee shall be required to adopt the “country brand.” Such a majority shall also be required when the Board approves the campaigns to promote island as a tourist and economic destination and those campaigns related to the development of a “country brand.”

e. The Committee shall conduct surveys and assessments, at least every two (2) years, on the effectiveness of the adopted brand, and recommend that any actions be taken in order to improve the use and effectiveness thereof.

f. Likewise, in order to change the “country brand” and adopt a new one, the provisions of this Section, which regulate the brand’s adoption process, shall be complied with. It shall further include a study, in accordance with the marketing and communications field parameters and requirements that validate the need for the adoption of a new “country brand.”

Section 8.- Functions and Powers of the Committee.-

The Committee shall have the following functions and powers:

a. To establish the internal organization and bylaws of the Committee through regulations to be approved by a majority constituted by eight (8) out of fifteen (15) members.

b. To establish commissions or work groups as are necessary to conduct its functions and procedures.

c. To administer the budget allocated.

d. To establish the guidelines for the use of the “country brand” by public agencies and private businesses.

e. To contract professional and advertising services as are necessary to carry out its functions.

f. To hold the “country brand” copyrights and oversee the proper use thereof, as well as to be empowered to take the necessary measures to safeguard its integrity and ensure that the brand is used according to the parameters and purposes of this Act. For such purposes, it may impose fines, as well as initiate any appropriate civil actions to prevent the undue use of the brand and to seek any pertinent remedies.

Section 9.- Funds and Allocations

The Committee is hereby allocated five percent (5%) of the funds appropriated for advertising and marketing to the following agencies: the Department of Economic Development and Commerce, the Tourism Company, Rums of Puerto Rico, the Puerto Rico Convention Bureau, the Trade and Export Company, the Industrial Development Company, and the Film Corporation.

The Committee may receive funds from any government instrumentality and private entity for the purposes of this Act. Furthermore, the Committee may also receive appropriations from the Legislative Assembly of the Commonwealth of Puerto Rico, whether by law or joint resolution, for or in benefit of the “country brand.”

The budget allocated to the Committee shall be used for the investigation, creation, development, implementation, and evaluation of the “country brand.” The advertising campaigns authorized by the Committee shall be deemed to be analogous to the advertising campaigns of the Tourism Company promoting Puerto Rico as a tourist and economic investment destination, for purposes of the statutes that regulate the advertising campaigns conducted by the Government of the Commonwealth of Puerto Rico. Furthermore, the money shall be set aside in a separate account for such purposes and shall be overseen by, and be under the custody of the Department of Economic Development and Commerce.

Section 10.- Reports

The Committee shall file an annual Report with the Governor and both Houses of the Legislative Assembly including an account of the activities conducted during the previous fiscal year, a balance sheet, the work plan for the following fiscal year, and the goals achieved.

Section 11.- Organizations

Any organization, entity, or private business that receives funds or incentives from the Government of the Commonwealth of Puerto Rico shall be required to include the “country brand” adopted in the promotional campaigns or programs within Puerto Rico and abroad.

Section 12.- Regulations

The Committee is hereby directed to adopt regulations as are necessary for the implementation of this Act within ninety (90) days following the approval thereof.

Section 13.- Severability Clause

If any clause, paragraph, subparagraph, article, provision, section, or part of this Act were held to be null or unconstitutional, such holding shall not affect, impair, or invalidate the remainder of this Act. The effect of such holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, or part of this Act thus nullified or held to be unconstitutional.

Section 14.- Effectiveness

This Act shall take effect immediately after its approval. Provided that the continuity of the promotional campaigns that, as of the approval of this Act, are being implemented by government instrumentalities shall not be affected.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 70-2013 (H. B. 4)** of the **1st Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to create the “Act for the Development of a Country Brand”; create a “Standing Committee on the Creation, Development, Implementation, and Maintenance of a Country Brand,” attached to the Department of Economic Development and Commerce, establish the composition, the obligations of the Department of Economic Development and Commerce, the functions, authorities, and jurisdiction of the Committee; etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 18th day of August, 2016.

Juan Luis Martínez Martínez
Director